



Development of A New Rule Concerning On-site Residential Sewage Discharging Disposal Systems within Allen County

#02-327(WPCB)

Overview

The Indiana Department of Environmental Management (IDEM) has developed a draft rule in response to SECTION 8 of Public Law 172-2002, also known as Senate Enrolled Act 461 of the 2002 General Assembly, concerning on-site residential sewage discharging disposal systems in Allen County. This draft rule is to be presented to the Water Pollution Control Board (board) on March 12, 2003, for consideration of preliminary adoption. Four (4) comment letters were received during the thirty day public comment period for the draft rule that was published in the Indiana Register on December 1, 2002.

Citations Affected

This rulemaking amends 327 IAC 5-1-1.5 and 327 IAC 15-3-2 and adds 327 IAC 15-14.

Affected Persons

This rule affects property owners only in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) (effectively Allen County) who have failing or failed septic or other on-site sewage disposal systems. Under the requirements of this rule, property owners who have on-site residential sewage discharging disposal systems that have been installed to repair or replace sewage disposal systems that fail to meet public health and environmental standards may discharge off-site one thousand gallons or less per day of treated sanitary wastewater if they have been issued an operating permit by the on-site waste management district in Allen County that is required by Public Law 172-2002 to be formed to regulate these on-site systems.

Reason(s) for the Rule

This rulemaking is being initiated pursuant to SECTION 8 of Public Law 172-2002, Senate

Enrolled Act 461-2002, which requires the Water Pollution Control Board to adopt a rule to establish permitting requirements for on-site residential sewage discharging disposal systems. The 2002 General Assembly passed SEA 461-2002 as a way to deal with the abundance of failed and failing septic systems in Allen County. The requirement to have a NPDES permit for the discharging disposal systems is a way to ensure that any effluent from the systems will meet state water quality standards.

Economic Impact of the Rule

The economic impact of this rule upon the affected homeowners could be significant taking into consideration the purchase cost of the on-site residential sewage discharging disposal system, its installation, operation, and maintenance, monitoring and analyzing costs, and fees required by the waste management district. However, these costs will be an offset to the property owners' current problems of property devaluation and hardships of selling property not served by sewers and with failed on-site systems due to soils too inferior to accommodate septic or other on-site nondischarging systems.

Benefits of the Rule

This rule requires the on-site sewage discharging disposal systems to comply with discharge limitations and state water quality standards. The Allen County Health Department believes that replacing failed septic systems with the on-site sewage discharging disposal systems will improve public health by requiring treatment of effluent that would otherwise go untreated due to failed septic systems.

Description of the Rulemaking Project

Several meetings were held between the Allen County Health Department and IDEM. IDEM has

also worked closely with EPA to develop the NPDES general permit to regulate the on-site residential sewage discharging disposal systems.

Scheduled Hearings

First Public Hearing: March 12, 2003, at the WPCB meeting held at Indiana Government Center South.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This new rule derives from a mandate under SEA 461. However, the NPDES general permit must comport with federal requirements for NPDES

permits.

Rulemaking Process

This rulemaking is proceeding under IC 13-14-9-7 which allows an expedited process by way of eliminating the need for a first notice of comment period. The General Assembly in enacting SECTION 8 of Public Law 1720-2002 clearly intended IDEM to obtain the general NPDES permit described in the Public Law and to develop this rule quickly. The draft of new rule 327 IAC 15-14 was published on December 1, 2002, in the Indiana Register as a second notice. The rulemaking from this point forward will follow the rulemaking process established in IC 13-14-9: The Water Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule, also known as the draft rule as preliminarily adopted, is published in the Indiana Register after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption, review by the Attorney General, and signature by the Governor occur, the rule becomes effective 30 days after filing with the Secretary of State.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635, Jay Hanko, Municipal Permit Section, Office of Water Quality, (317) 233-0470, or (800) 451-6027 (in Indiana).